

# **Gulf of Mexico Fishery Management Council Fishery Management Plan for Regulating Offshore Marine Aquaculture in the Gulf of Mexico**

## **Frequently Asked Questions**

### **Why did the Gulf Council develop an Offshore Aquaculture Fishery Management Plan (Aquaculture FMP)?**

- The Gulf Council developed the Aquaculture FMP to establish a regionally-based regulatory framework for managing the development of an environmentally sound and economically sustainable offshore aquaculture industry in federal waters of the Gulf of Mexico.
- The primary goal of the FMP is to increase fishery production in the Gulf of Mexico by supplementing the supply of wild caught species with cultured product.

### **What is offshore aquaculture?**

- Offshore aquaculture is the rearing of aquatic organisms in controlled environments in federal waters. This type of aquaculture could include marine finfish, shellfish, and/or aquatic plants.
- Federal waters begin where state jurisdiction ends and extend 200 miles offshore.

### **Who regulates offshore aquaculture?**

- NOAA has regulatory authority to address marine resource conservation issues.
- The U.S. Army Corps of Engineers and the Environmental Protection Agency also have some regulatory authority over siting and water quality issues.

### **Are there currently any offshore aquaculture operations in U.S. federal waters?**

- While most marine aquaculture occurs in coastal waters under state jurisdiction, NOAA has approved some offshore aquaculture activities, including:
  - A live rock aquaculture program in the Gulf of Mexico and South Atlantic; and
  - An area closure for scallop aquaculture in New England.
- Additionally, NOAA has issued exempted fishing permits for offshore aquaculture research activities. The limited scope and duration of these exempted fishing permits do not generally support commercial-scale activities in federal waters.

### **What does the Gulf Aquaculture FMP propose?**

- The regional framework established by the Gulf FMP would permit and regulate an estimated 5 to 20 offshore aquaculture operations in the Gulf of Mexico over the next 10 years.
- Each permit would be issued for an initial 10-year period and subject to renewal every 5 years thereafter.

### **What are the key environmental safeguards in the Gulf Aquaculture FMP?**

- The primary environmental protections proposed in the Gulf FMP would:
  - Limit the species that may be cultured to Gulf Council-managed species (except shrimp and corals) that are native to the Gulf of Mexico.
  - Prohibit the culture of non-native, genetically modified, and transgenic species.
  - Prohibit aquaculture operations from being sited in habitat areas of particular concern, marine reserves, marine protected areas, Special Management Zones, and permitted artificial reef areas identified as such through Gulf Council FMPs and implementing regulations, as well as coral reef areas (i.e., patch reefs, outer bank reefs, deep water banks, and hard bottoms)

- Create a restricted access zone for each permitted facility.
- Cap the total amount of fish that could be cultured annually, as well as the relative contribution of each individual operation to the annual cap.
- Establish numerous recordkeeping, reporting and operational requirements designed to minimize or mitigate potential environmental impacts, including but not limited to requiring:
  - A daily record of introductions/removals from systems;
  - Documentation that broodstock are marked or tagged at the hatchery;
  - Certification that cultured animals are pathogen free prior to stocking;
  - Locator devices to be placed on each allowable aquaculture system used for grow-out;
  - Reporting to NOAA Fisheries Service within 24 hours of discovering a major escapement, entanglements or interactions with marine mammals, endangered species and migratory birds, and/or findings or suspected findings of pathogens;
  - Routine monitoring relative to a baseline assessment provided during the permitting process and consistent with protocols and procedures developed by NOAA Fisheries Service in coordination with other federal agencies;
  - An Emergency Disaster Plan; and
  - An assurance bond for the removal of structures and cultured species.

#### **What is the status of the Gulf Aquaculture FMP?**

- On June 4, 2009, NOAA Fisheries Service published a *Federal Register* notice of availability seeking public comments on the FMP through August 3, 2009.
- The Magnuson-Stevens Act provides the Secretary of Commerce (Secretary) 30 days from the end of the comment period on a proposed FMP to approve, partially approve or disapprove the FMP.
- If the Secretary (or NOAA Fisheries Service) does not notify the appropriate regional fishery management council of a decision within this 30-day period, then the FMP takes effect as if approved.
- The 30-day notification deadline for the Gulf Council's Aquaculture FMP passed on September 2, 2009; consequently, the FMP has entered into effect by operation of law.

#### **Why didn't NOAA Fisheries Service act within the required 30-day period?**

- NOAA wishes to preserve its role as the lead federal authority responsible for addressing marine resource conservation issues related to offshore aquaculture operations.
- However, the scope of the Gulf Council's proposed Aquaculture FMP is far broader than any aquaculture measures previously submitted for Secretarial review under the Magnuson-Stevens Act.
- NOAA believes offshore aquaculture activities should be governed by a national policy rather than by regional regulatory frameworks to enable a comprehensive ecosystem-based approach to offshore aquaculture. Such an approach would:
  - Include terms and conditions to conserve and protect our living marine resources and marine ecosystems and to address the fisheries management issues posed by aquaculture activities, including the placement of aquaculture facilities to avoid sensitive ecological areas, species selection, genetic risks of escapes, risk of disease transfer, and other potential adverse impacts to wild fish stocks, fish habitat, and other living marine resources.
  - Ensure a coordinated federal regulatory process for permitting aquaculture facilities in federal waters and provide regulatory certainty for potential investors.
  - Allow NOAA to work with other federal agencies to clarify various regulatory responsibilities and to provide the scientific information needed for permitting decisions.

- Accordingly, we allowed the statutory timeframe to lapse and the FMP to take effect by operation of law.
- As we develop a national policy, we will also examine the plan in the context of that policy. If we determine the plan is inconsistent with that policy, we will consider appropriate action, which could include seeking amendment or withdrawal of the plan through the Magnuson Act process.

**When will NOAA Fisheries Service begin accepting applications for offshore aquaculture permits in the Gulf?**

- Applications will not be accepted until the final rules to implement the FMP are in place. So, although the FMP has become effective by operation of law, the regional regulatory framework it outlines cannot take effect until the FMP is implemented through proposed and final rulemaking.

**What are the next steps?**

- NOAA will develop a comprehensive national marine aquaculture policy that includes offshore aquaculture.
- NOAA will work closely with the Gulf Council and Congress to ensure a smooth transition to a national approach for regulating offshore aquaculture activities.